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## UNITED STATES DISTRICT COURT

## CALIFORNIA NORTHERN DISTRICT (SAN JOSE)

11      VLADIMIR A. BALAREZO, individually and )	Case No. C 07 05243 JF (PVT)
12      on behalf of others similarly situated )	DECLARATION OF DANIELLE SILVA IN
13    Plaintiff, )	SUPPORT OF DEFENDANTS' SUR-REPLY
14    vs. )	TO PLAINTIFFS' MOTION TO COMPEL
15      NTH CONNECT TELECOM INC., and )	PRODUCTION OF DOCUMENTS
16      STEVEN CHEN, )	Date:    July 1, 2008
17    Defendants. )	Time:    10:00 a.m.
	Courtroom:     Courtroom 5, 4th Floor
	Judge:     Hon. Patricia V. Trumbull

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**DECLARATION OF DANIELLE SILVA**

20      I, Danielle Silva, declare under penalty of perjury the foregoing is true and correct.

21      1.      I am the Operations Finance Manager for defendant Nth Connect Telecom Inc. I am  
 22      the person who is responsible for coordinating any document production in this case. This  
 23      declaration is based on personal knowledge.

24      2.      I make this declaration in support of defendants Nth Connect Telecom, Inc. and  
 25      Steven Chen's Opposition to Plaintiffs' Motion to Compel Production of Documents.

26      3.      Following is an estimate of how much time it would involve to produce the various  
 27      categories of documents sought by plaintiff Balarezo in this case.

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1           4.     The first category plaintiff seeks are timecards/timesheets as they pertain to all  
 2 installation technicians. Nth Connect only started keeping timecards as of April 2006, and those  
 3 documents are contained in 4-5 boxes. We don't have time cards prior to April 2006, as the  
 4 technicians were paid via 1099s. I do not have easy access to the 1099s and am unaware how  
 5 voluminous they are.

6           5.     The second category that plaintiff seeks is payroll records for all technicians. The  
 7 payroll records for Nth Connect that contain the technician information also contain payroll  
 8 information for other non-technician employees and thus would have to be redacted. I estimate that  
 9 it would take approximately 12 hours to redact this information before the payroll records could be  
 10 produced.

11          6.     As to both the first and second categories, it is our understanding that we cannot turn  
 12 over payroll information about our employees to third parties without the employees' consent.

13          7.     The third category plaintiff seeks is "Daily Count Sheets." The daily count sheets are  
 14 attached to the Comcast work orders and would have to be part of the production of the work orders  
 15 as discussed below. We cannot produce the daily count sheets separate from the work orders. The  
 16 information contained in the daily count sheets is summarized in a file called the "bi-weekly payout  
 17 sheet," but we do not maintain hard copies of the bi-weekly payout sheets and they would have to  
 18 be compiled and printed from computer records. Every two weeks there are approximately 90 work  
 19 sheets generated in an excel spread sheet, each of those ninety pages would have to be pulled up  
 20 individually and manually printed out, thus, for a 4 year time period, there would be approximately  
 21 10,000 work sheets that would have to each be printed out manually. Given the labor intensive  
 22 nature of this project, I cannot give a precise estimate, but it would take approximately 100 hours,  
 23 assuming one could print the records at the rate of 100 per hour.

24          8.     The fourth category plaintiff seeks is all Comcast work orders. For the 11 month time  
 25 period when Vladimir Balarezo worked for Nth Connect there are 50 bankers' boxes worth of  
 26 Comcast Work Orders. Thus, for the entire time period covered in the complaint, there would be  
 27 in the range of 150 boxes of Work Orders. Pulling the work orders that pertain to Balarezo and  
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1 Avila, and redacting the customer information, will take two employees over a month to accomplish,  
 2 working approximately 2 hours per day each on the document review. The employees cannot devote  
 3 their time full time to pulling and redacting the records, because they have to complete their daily  
 4 task of reconciling work orders. If Nth Connect had to produce *all* of the work orders, it would be  
 5 an insurmountable task to redact all of the customer information contained therein, as in addition to  
 6 information relating to the jobs performed by the installer, the work orders contain personal  
 7 information, such as names, account numbers, addresses, phone numbers and amounts paid, of  
 8 customers of Comcast who have not been provided any kind of notice that such information is being  
 9 sought. If the Court ordered production of the work orders, without redaction, Nth Connect would  
 10 be in violation of its contract with Comcast, which requires Nth Connect to keep information  
 11 pertaining to Comcast customers confidential. If the Court allowed the discovery, with redaction,  
 12 it would be extremely financially burdensome to respond to – Nth Connect would literally have to  
 13 hire people to review and redact the documents, because the task would overwhelm its current office  
 14 staff.

15       9.      The fifth category plaintiff seeks is employee manuals. As we noted in our written  
 16 responses to plaintiff's discovery, Nth Connect did not have any employee manuals at the time that  
 17 Balarezo and Avila worked for Nth Connect, thus there is nothing to produce. Nth Connect only  
 18 instituted an employee manual in July of 2007, and since it was not in effect when either of these  
 19 employees worked for Nth Connect, it is not relevant.

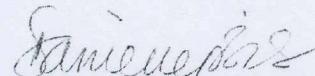
20       10.     According to plaintiff's motion, the sixth category that plaintiff seeks is  
 21 "communications and documents concerning Comcast's requirements relating to installation  
 22 schedules made with Comcast customers." (See page 9 of the Motion to Compel.) While I am not  
 23 really sure what information plaintiff is seeking with this request, there is some scheduling  
 24 information contained in the Work Orders. See paragraph 8 above for how burdensome and difficult  
 25 this information would be to produce.

26       11.     The last category plaintiff seeks is documents relating to "charge backs" against Nth  
 27 Connect by Comcast for technicians' failure to keep installation schedules with customers. As we  
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1 noted in our responses to discovery, Nth Connect does not pass these charges on to its technicians.

2 I declare under penalty of perjury under the laws of the State of California and the Federal  
3 Government that the foregoing is true and correct.

4 Dated: June 25, 2008

  
Danielle Silva

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